

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

|                      |   |                        |
|----------------------|---|------------------------|
| STATE OF OHIO,       | : | APPEAL NO. C-160198    |
|                      | : | TRIAL NO. 13CRB-23108  |
| Plaintiff-Appellee,  | : |                        |
| vs.                  | : | <i>JUDGMENT ENTRY.</i> |
| NAVAE STANFORD,      | : |                        |
| Defendant-Appellant. | : |                        |

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Following a bench trial, defendant-appellant Navae Stanford appeals her conviction and sentence for a single count of unauthorized use of a motor vehicle, punishable as a first-degree misdemeanor. Stanford, the mother of complaining witness Carmen Presswood's grandchildren, needed a vehicle to transport the grandchildren to school. Presswood, a Hamilton County resident, purchased a motor vehicle from a local auto dealer on an installment contract. Stanford agreed in writing that she would make the \$260 monthly installment payments, and that, if Stanford failed to do so, Presswood would take possession of the vehicle. Stanford made only one payment. Presswood made two payments. After making repeated attempts to contact Stanford, a resident of the Clifton neighborhood of Cincinnati, and to retrieve the vehicle from her, Presswood called the police.

At trial, the court heard Presswood's testimony and reviewed the installment contract, the registration listing Presswood as the owner, and the written agreement between Presswood and Stanford. Stanford did not present a case in defense or raise an affirmative defense to the charge under R.C. 2913.03(C). The trial court found Stanford guilty and, in open court, imposed a \$150 fine. The court did not mention that Stanford was required to pay court costs. The court's sentencing sheet, however, included the imposition of court costs.

In two interrelated assignments of error, Stanford challenges the weight and sufficiency of the evidence adduced to support her conviction. R.C. 2913.03(A) provides that no person shall knowingly use or operate a motor vehicle without the consent of the owner. The statute proscribes "the use or operation of a motor vehicle without, beyond, or after revocation of the owner's consent." *State v. Rose*, 63 Ohio St.3d 585, 589 N.E.2d 1315 (1992), syllabus.

Our review of the entire record fails to persuade us that the trial court, acting as the trier of fact, clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). The trial court was entitled to reject Stanford's theory that she had lawful possession of the vehicle sufficient to establish that she was the owner of the vehicle. Despite the vigorous efforts of Stanford's trial counsel to undermine the bases of Presswood's testimony, the trial court, having heard Presswood and having reviewed the exhibits, was free to conclude that Stanford's failure to make the monthly installment payments resulted in the revocation of consent for her to use Presswood's vehicle. *See State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus; *see also Rose* at syllabus.

Moreover, the record reflects substantial, credible evidence from which the court could have reasonably concluded that all elements of the charged crime had been proved beyond a reasonable doubt. *See* R.C. 2913.03(A); *see also State v. Conway*, 108 Ohio St.3d 214, 2006-Ohio-791, 842 N.E.2d 996, ¶ 36. The first and second assignments of error are overruled.

In her third assignment of error, Stanford claims that the trial court was not impartial, effectively served as co-counsel for the state, and violated Evid.R. 611 and Stanford's due-process rights when, at the conclusion of the state's examination of Presswood, the trial court asked the assistant prosecuting attorney whether "we [had gotten] venue in by the way?"

First, the allegation that Stanford did not have an impartial judge is a serious charge, and one with which we do not agree. Nevertheless, she can only pursue that claim by filing an affidavit of disqualification with the Ohio Supreme Court. *See State v. Earls*, 1st Dist. Hamilton No. C-040531, 2006-Ohio-4029, ¶ 16-18.

Second, we disagree that the trial court assumed the role of prosecutor. Pursuant to Evid.R. 611(A), trial courts are required to exercise reasonable control over the mode and order of presenting evidence for the effective ascertainment of the truth. *See* Evid.R. 614. Here, the trial court's ill-phrased question, when viewed in context, appears to have been directed simply toward advancing the goals set forth in Evid.R. 611 and 614. *See Vermeer of S. Ohio, Inc. v. Argo Constr. Co.*, 144 Ohio App.3d 271, 276, 760 N.E.2d 1 (1st Dist.2001).

Finally, it is apparent from the record that the trial court's question did not cross the line into the role of the prosecutor. The trial court did not deny Stanford due process or a fair trial. The state had already elicited sufficient information from Presswood and the exhibits to establish venue, which does not need to be established in expressed terms.

*See State v. Jackson*, 141 Ohio St.3d 171, 2014-Ohio-3707, 23 N.E.3d 1023, ¶ 143. Therefore, we overrule Stanford's third assignment of error.

We do find merit, however, in Stanford's fourth assignment of error. As the state concedes, the trial court failed to address court costs at the sentencing hearing and then imposed them in its journal entry. This omission is reversible error that requires a remand for the limited purpose of remedying the error. *See State v. Joseph*, 125 Ohio St.3d 76, 2010-Ohio-954, 926 N.E.2d 278; *see also State v. Geary*, 1st Dist. Hamilton No. C-160195, 2016-Ohio-7001, ¶ 44-46. As a result, we sustain the fourth assignment of error.

We, therefore, reverse that portion of Stanford's sentence imposing court costs and remand this cause to the trial court for the limited purpose of allowing Stanford to move the trial court for a waiver of the payment of court costs on the basis of indigency. We affirm the trial court's judgment in all other respects.

Judgment affirmed in part, sentence reversed in part, and cause remanded.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**CUNNINGHAM, P.J., DEWINE and STAUTBERG, JJ.**

To the clerk:

Enter upon the journal of the court on November 23, 2016  
per order of the court \_\_\_\_\_.  
Presiding Judge